Sectt. II-27—45,006—19-10-39.

Revenue (1941) Department.

SERIES.

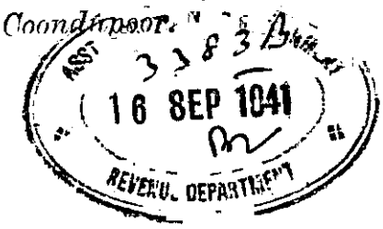
G.O. No. 2398

Dated 24-10-1941

[Despatch Abstract.]

Registration Department - (South Kanara) - Notice of suit - under section 80 C.P.C. - From Karant Sri K.R. - Papers - Record

K. Karanth, B A. B L.
Advocate, Coondapoor.



Chief Secte

Revenue
16/9

To

The Chief Secretary to the

Government of Madras, Madras.

Sir,

Suit notice under Sec 80 of C.P. Code.

Please take notice that a suit will be filed for declaring the proceedings dated 17-2-41 of the Sub Registrar of Shankaranarayna Coondapoor Taluk , South Canara and the attendance of the poen Subbanna during Xmas 1940are forgery and that the policy of the Inspector General of Registration, Madras of ordering for taking the statements of the poen Subbanna and some other persons behind my back and without giving me an opportunityfor cross examination is a grave miscarriage of justice unheard of in the living memory of public justice

2. I had examined eight witnesses on 3-5441 at Shankaranarayna and the Sub Registrar was granted every opportunity to cross examine them. Later Sri B. Ramakrishna Rao, Sub Registrar now at Karkal was examied regarding the false attendance of the poen Subbanna. When such unimpeachable evidene was let in for the prosecution the order of the I. G. of Registration for getting statements of the poen Subbanna, accused and some other persons without giving me an opportunity for cross examination is nothing but miscarriage of justice. Hence the suit.

3. During the annual inpectionof the office of the Sub Registrar of Shankaranarayna the Registrar

had enquired into the matter and the Sub Registrar had confessed his guilt that he had absented on 17-2-41 from the office. On 13-3-41 when the Registrar was inspecting the office of the Sub Registrar , Coondapoor the very Sub Registrar of Shankaranarayana had come to the office at about 3.P.M. These officers have seen him at the office.

4. Sri M. R mappa, Registrar and Sri B. Ramakrishn R o, Sub Registrar are my additional witnesses to prove the allegations

5. If the Gove nment assures me an impartial enquiry and disciplanary action in the matter this suit will not be pressed. Otherwise this suit will be proceeded with on the expiry of 60 days from the receipt of notice.

Coondapoor

12-9-41

Kakaraute -
Advocate.

Rev. Debt

[Crl. 3383 B/41]

Registration Debt
Misc offence under
Sec-80 y Cr. P.C.

Fm. Sri K.B. Karan
BA BL, Coondapoor
d 12-9-41.

18-9-41

Encl. No. 3383 B/41-1 d

Forwarded
~~Transferred~~ to the
D.G y Registration

2. The D.G is requested
to submit a full report
on the facts y the
case very urgently
together with his
remarks on the
allegations contained
in the said petition

18/9
1841

2/9/41
1941
I see with enclosures
18/9

To

The D.G y Regn.
(with copy y petition)

Dc. 17.9.41
18/9
17.9.41

V n
Objn withdrawn
pr's
Date 22/9

C.F. 32.

REGISTRATION DEPARTMENT.

In reply, please quote number, date and short title.

Received ..... *Registered* .....

From (Name) Diwan Bahadur B.V. Sri Hari Rao Nayudu, B.A., B.L.,
(Designation) Inspector-General of Registration,
Post Box ....., (Station) MADRAS.
Telegraphic Address .....

To

The Secretary to Government,
Revenue Department.

No. 540-Genl. *dated* 9th October 1941.

Sir,

Sub: Suit notice under section 80 of the Civil procedure code from Sri K.S. Karant, B.A., B.L., Coondapur.

Ref: Endorsement No. 3383-B/41-1, Revenue, dated 18.9.1941.

Enclosures ONE stitched file.

Spare Copies NIL.

The following is a brief history of the case:-

Sri K.S. Karant, B.A., B.L., Advocate, Coondapur, sent a complaint to the District Registrar of South Kanara and the Inspector-General of Registration containing the following allegations against the Sub-Registrar of Sankaranarayana, K. Shaik Ummer Sahib:-

(i) That the above Sub-Registrar was extracting exhorbitant rates of fees for registration and searches.

(ii) That he was in the habit of leaving the station witnout the previous sanction of the Registrar and to quote one specific instance, he left Sankaranarayana on the 16th February 1941 for attending the marriage of the daughter of the Rural Medical Practitioner of Sankaranarayana at Udipi and returned to the station only on the 17th evening by the last bus which reached Sankaranarayana at about 5.30 P.M.

(iii) That he was very indulgent towards his favourite peon Subbanna for whom false attendance was got up at Sankaranarayana during the Christmas Holidays of 1940 while the peon himself was staying at Coondapur carrying milk to coffee hotels.

In proceedings dated 9.4.1941, the Registrar was asked to conduct a preliminary enquiry at Sankaranarayana. The Registrar accordingly proceeded to Sankaranarayana and held the preliminary enquiry on the 3rd May 1941. In the preliminary enquiry, allegations (i) and (iii) were not substantiated. As regards allegation (ii) viz., that the Sub-Registrar had unauthorisedly absented himself from the station on

the 16th and 17th February 1941, the evidence recorded was conflicting. One set of witnesses produced by the complainant spoke to the absence of the Sub-Registrar on the 16th and 17th February 1941. But these witnesses had not gone to the Sub-Registry Office on the days in question. On the other hand, another set of disinterested witnesses who had actually gone to the Sub-Registry Office, Sankaranarayana, for transacting their official business, had deposed to the presence of the Sub-Registrar in the office on the 17th February 1941.

16th February 1941 was a Sunday. On the 17th February 1941, the following items of work were turned out by the Sub-Registrar in the Sub-Registry Office, Sankaranarayana, viz., 2 documents were copied. 2 pending documents which were admitted to registration previously were assigned numbers in the regular series and ledgered in Account A. 2 certified copies and one registered document were returned to the parties. A money order of Rs.8.2.0 for an encumbrance certificate was received by the Sub-Registrar and credited to the concerned accounts. The peon of the office stated that the Sub-Registrar was present in the office on 17.2.41. The person who took delivery of the certified copies and the document spoke to the presence of the Sub-Registrar on 17.2.41 between 11 A.M. and 1 P.M. The Branch Post Master, Sankaranarayana, deposed that money order payments were ordinarily made between 12.30 and 1.30 P.M. on working days. The evidence of the above disinterested witnesses was entitled to greater weight than the testimony of interested persons produced by the complainant who, being a lawyer, could be expected to prepare his case.

p68 of (M)
vide para 4, p93 of (M)

As regards the Sub-Registrar's alleged absence on 16.2.41, that day, being a Sunday, a report of leaving the Head Quarters (under order 1006 of the Registration Manual, Part II) would have sufficed. But there was evidence to show that even on that date, the Sub-Registrar was present -- vide the deposition of clerk, B. Ganesh Rao -- page 108 of the file enclosed. Thus, as the allegations were not satisfactorily proved, no action was taken against the Sub-Registrar and Mr. Karant was also informed accordingly.

surplus
(M)

2. My remarks on Mr. Karant's suit notice dated 12.9.1941 are offered below:-

Pl. 2 and 3

paras. 1 and 2.

p1 and 2

Absence of the Sub-Registrar on 17.2.1941.

Not sufficiently proved -- vide the history of the case in para. 1 supra.

Absence of a peon during the Christmas Holidays of 1940.

I have nothing to add to the following remarks of the District Registrar of South Kanara, in this connection:-

"In para. 2 of the suit notice, Sri K.S. Karant says that Sri B. Ramakrishna Rao formerly Sub-Registrar of Coondapur now at Karkal was examined regarding the false attendance of peon Subbanna, during the Christmas Holidays in 1940. But what the Sub-Registrar says is simply that he saw the peon at Coondapur during some days in Christmas 1940

and that he could not say that he saw the peon all the days in Christmas. As stated in para. 5 of my report Ref. C. 277-G1./41, dated 8.5.1941, (page 8 of the enclosed file), I found from the entries in the patrol register that clerk Sri B. Ganesh Rao and not Shaik Ummer Sahib the Sub-Registrar complained against, was in care of the office from the 25th December 1940 during the Christmas holidays and the peon had marked the attendance in the register on all the days. As Coondapur is only at an hour's ~~fence~~ distance from Sankaranarayana by bus, it was possible for the peon to go to and from Coondapur the same day. At any rate, by reason of the fact that clerk Sri B. Ganesh Rao and not Shaik Ummer Sahib, the Sub-Registrar was in care of the office during the Christmas holidays from the 25th December 1940, the charge of undue indulgence, if at all, can be levelled only against Sri B. Ganesh Rao, clerk, and not against Shaik Ummer Sahib, the Sub-Registrar, complained against."

Examination of witnesses in the absence of the complainant.

The District Registrar was conducting only a preliminary enquiry to satisfy himself whether there was any case to proceed against the Sub-Registrar and there was therefore no need for the complainant either to be present or much less to cross-examine the witnesses. The privilege of cross-examination in the preliminary enquiry is allowed only for the accused. What is necessary is that all the witnesses cited by the complainant should be examined and this has been done.

Para. 3.

Confession. The so-called 'confession' by the Sub-Registrar is totally denied by the District Registrar who says:-

"It is not a fact that I enquired into the matter during my annual inspection of the office of the Sub-Registrar of Sankaranarayana in March 1941. The statement in the suit notice, that the Sub-Registrar Shaik Ummer Sahib, confessed to me his guilt that he absented himself from the office on 17.2.1941 is also not true."

Sub-Registrar's absence on 13.3.1941.

This day was a special holiday for the Hindus on account of Lunar Eclipse but it was not a holiday for the Sub-Registrar who is a Muhammadan. The Sub-Registrar admitted that he left the station about 2 P.M. for Coondapur to see his mother who was seriously ill and he was granted casual leave by the

8

-4-

District Registrar for half-a-day in the afternoon of 13.5.1941.

para. 4.

Does not call for remarks.

para. 5.

I cannot understand how the petitioner has got a cause of action for a suit against the Government, if a particular officer is not punished by his superiors as he desired by the petitioner after a due enquiry into his complaint. I would respectfully suggest to the Government that the petitioner should be told that the threatened suit is awaited.

3. The original file relating to the case is submitted.

I have the honour to be,

Sir,

your most obedient servant,

S. C. Ramaswamy

PERSONAL ASSISTANT,
for I.G. of Regn.

9/

Rev Deptt

[C.R. 3383B/41] Public servants. Regn Deptt - Sub Registrar, Shankaranarayana, (S. Kanara) - Suit notice under Sec 80 C.P.C.

hpt 3 cf

From Sri K.B. Kowant. 9(12.9.41

—

hi 5 8 cf

From the Dy of Regn. No. 5240/41 9.10.1941.

TOAS.

Please see the

hpt 2 cf

suit notice received from Sri K.B. Kowant, advocate, Coondapoor at p1 cf. and report of the Dy of Regn thereon at pp 5-8 cf. In the circumstances explained by the Dy, ~~it is for orders whether~~ his

p 8 cf

suggestion may be accepted and the threatened suit awaited Legal may see and be requested to advise whether a reply need be sent at all or whether the papers may not simply be recorded.

DS 16.X.41

AOR Ldo

PA 1-2-c

(i) 3383A

The suit notice may be recorded with the remark that the threatened suit is awaited, and a copy of the order may be communicated to Mr. Karant.

2. In para 4 of his report at page 9 of the I.G's Proceedings No.540 dated 15-9-1941 the District Registrar states as follows:-

(M)

" The Sub Registrar has since himself admitted that he left the station at about 2 P.M. for Coondapur to see his mother who was seriously ill and applied to treat his absence as on casual leave for half a day on 13-3-1941. Under the circumstances reported by him, I propose to grant him his request."

It would appear that but for the complaint of the notice-given the fact that the Sub Registrar left the station on the afternoon of 13-3-41 without permission would not have come to notice. The District Registrar however appears to treat the matter lightly and merely to treat the Sub Registrar's absence as casual leave for half a day on 13-3-41. It would appear that some notice should be taken of the Sub Registrar's unauthorised absence. The I.G. may be instructed accordingly.

(ii)

SECRETARY TO GOVERNMENT
23 OCT 1941
REVENUE DEPARTMENT

17.10.41

(i) and (ii) are for orders.

20.10.41.

(i) may be left to I.G.

C: 20.10.41
R: 23.10.41

A-4

To AT.

Please see the orders
mps 2 ante. A draft order is
submitted for approval.

23/VII

23/VII

23.X.41

13

C.F. 16.

DRAFT FOR APPROVAL.

	Date.	Initials.
When received for fair copying ..		
When copied ..		23/10/41
When examined..		
When signed ..		
When despatched.		

SUBJECT Rev. Dept

READ AGAIN _____, dated _____ 19____

" " _____ " _____ 19____

READ *ALSO* :—

No. 3383/B/41 From the Sri K.R. Karanth PA No. _____, dated 12-9 19 41
PA - Coondapoor.

" _____ To ~~the Dy Regn~~ Encld No 3383/B/41-1 18/9 19 41

" _____ From —do— " Encl " 9/10/19 41

Order ~~Resolution~~ Ms. No. 2398 dated 24-10-41 19____

Forward with ... 25/X

Recorded.
No threatened suit is awaited.

23.10.41

To

The Dy Regn. (with case file)

Sri K.R. Karanth PA PC

Advocate,

Coondapoor.

S. Karanath

23.X.41